

## II. REMARKS/ARGUMENTS

These Remarks are in response to the Office Action mailed November 1, 2005.

Claims 1-26 were pending in the Application prior to the outstanding Office Action. In the Office Action, the Examiner rejected claims 1-7, 11-16 and 19-25, and objected to claims 8-10, 17, 18 and 26 as allowable but dependent upon a rejected base claim. The present reply responds to the rejections, leaving for the Examiner's present consideration claims 1-26 and new claims 27-31. Reconsideration of the rejections respectfully is requested.

### A. Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-7, 11-16 and 19-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shaffer et al. (U.S. Patent 6,396,963, "Shaffer"), and further in view of Fu et al. (U.S. Patent 6,882,793; hereafter, "Fu"). Applicant respectfully disagrees because neither reference, alone or in combination, teaches each limitation of the independent claims.

Claim 1 as amended is reproduced here for the examiner's convenience:

Claim 1 (Currently amended): A method for producing a video collage, comprising the steps of:

segmenting a video into a plurality of video segments based upon global properties of the entirety of said video;

providing a video collage template having at least one individual video frame;

associating a video segment from said plurality of video segments with said individual video frame of said video collage template; and,

producing a video collage from said video collage template and said associated video segment.

With regard to independent claim 1, the examiner suggests that "Shaffer discloses segmenting, i.e., cutting, a video into a plurality of video segments (which broadly reads on cutting version of a photo collage process, and also see col. 4, lines 30-47)." The cited text does not support the examiner's position because it says nothing at all about segmenting. Instead, in context, the cited text relates to a "collection step" whereby a customer sends in exposed film, digital memory cards, etc. to a processing facility. Col. 4, lines 6-10. Images are processes as appropriate for the type of image medium (film, memory card, etc.) and stored in a data store. Col. 4, lines 11-33. In the text

cited by the examiner, the disclosure concerns associating a customer number with all of the customer's image data. This customer data is referred to as meta data. Col. 4, lines 37-41. The cited text therefore supports associating meta data with digital images, and not, as the examiner suggests, "cutting[] a video into a plurality of video segments." The examiner thus has not shown that Shaffer teaches the limitation of claim 1 as amended, "segmenting a video into a plurality of video segments based upon global properties of the entirety of said video . . .". Accordingly, at least for this reason, claim 1 is not obvious over the cited art, and the claims depending directly and indirectly from claim 1 (*i.e.*, 2-10) also are believed to be patentable over the cited art. Reconsideration of the rejection respectfully is requested.

Claim 1 as amended also is allowable over the cited art for the additional reason that the cited text in Shaffer (Col. 11, lines 28-37; Fig. 9) do not support the examiner's suggestion that Shaffer discloses "providing a video collage template having at least one individual video frame . . ." The cited text discloses "photocollage templates." In contrast, the present invention discloses and teaches "providing a *video* collage template . . ." (emphasis added). The term "photo" in Shaffer refers to still images, while the present invention teaches a video collage in the sense of a film or movie, that is segmented. Support is found throughout the specification of the present disclosure, but a review of the "Background" section makes clear that the invention addresses issues relating to increased use of video cameras by all types of consumers. *See, e.g.*, ¶¶ [0002]-[0008]. In contrast, Shaffer pertains to a collage of only still images which are not associated with video segments, even though apparently, still images can be obtained from video camera cartridges. *See, e.g.*, Col. 4, lines 38-39 (referring to "individual images or groups of images"). Extrapolating "video" as in the present application from "photo" as disclosed in Shaffer is impermissible hindsight, and cannot provide a basis for a section 103 rejection for obviousness. Impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art. Manual of Patent Examining Procedure ("MPEP") § 2142. Because the cited text does not support the examiner's suggestion that Shaffer teaches the "providing" step in claim 1 as amended, claim 1 is allowable over the cited art.

Claim 1 as amended is further allowed over the cited art because the examiner's position that Fu (citing Fig. 5c) discloses "associating a video segment from plurality of video segments with

individual video frame of video collage template." Applicants respectfully disagree. The cited drawing does not teach a "associating a video segment . . . with said individual video frame of said video collage template," as per claim 1 as amended. The text of Fu that corresponds to Fig. 5c cited by the examiner, discloses that Fig. 5c is not a video collage template, but rather, a "user interface 580 . . . [that] includes a streaming video frame 582, scene frame 584 and one or more controls. . . . [V]arious controls are included on the user interface 580 for editing or otherwise managing the selected scene." Fu, Col. 14, line 58-Col. 15, line 11. In short, Fig. 5c and the associated text (not cited by the examiner) of Fu teaches "editing the selected scene," while the present invention teaches "associating a video segment . . . with said individual video frame of said video collage template." Accordingly, Fu does not teach the limitation which the examiner admits Shaffer fails to teach. For this additional reason, claim 1 as amended is not obvious over the cited art.

With regard to dependent claim 2, the examiner suggests that Shaffer discloses a plurality of video segments from said plurality of video segments. Office Action at 3, citing Shaffer, Figs. 8 and 9. Applicants respectfully disagree for at least the reasons set forth with regard to independent claim 1, which remarks are incorporated herein in full by reference. Applicants further disagree because as established above, Shaffer does not relate to video in the sense that the present invention does, *i.e.*, images that may change over time like a movie. Instead, the disclosure of Shaffer pertains to still images.

Also with regard to claim 2, the examiner further suggests that Shaffer discloses "associating each of said selected plurality of video segments with a respective individual frame of said video collage." Office action at 3 citing Col. 3, lines 49-58; Col. 7, lines 24-31. Applicants respectfully disagree. None of the cited text discloses "associating . . . video segments with a . . . frame of said . . . collage." The text cited in column 3 relates to "transforming the . . . image material into a photocollage," (not a video collage) and says nothing about associating video segments with a frame of the video collage. Column 7 of Shaffer concerns image quality thresholds, and not any association of video segments with a video collage frame. Since Shaffer does not teach each of the elements of claim 1 and also fails to disclose each of the elements of claim 2, claim 2 is allowable and reconsideration of the rejection respectfully is requested.

With regard to dependent claim 3, the examiner suggests that claim 3 is obvious over Shaffer. Office Action at 4, citing Col. 11, lines 55-61; Col. 12, lines 1-9. Applicants respectfully disagree for at least the reasons set forth with regard to independent claim 1, which remarks are incorporated herein in full by reference. The cited text in Shaffer does not relate in any way to the limitations of claim 3 (i.e., "providing a plurality of representative images, wherein each representative image represents one of said plurality of video segments; selecting a representative image from said plurality of representative images; and associating said representative with said individual video frame of said video collage template.") Instead, the cited text in Col. 12 relates to associating customer identification with still images, while the cited text in Col. 11 concerns assigning an identifier between a reduced resolution thumbnail and a high resolution still image. Because the cited text of Shaffer does not disclose each limitation of dependant claim 3 and because the cited art fails to disclose each limitation of independent claim 1, claim 3 is allowable, and reconsideration of the rejection respectfully is requested.

Applicants advance the same remarks in connection with claim 4, based on the examiner's suggestion that both claims 3 and 4 are obvious by the same analysis. Office Action at 4. Accordingly, Applicants respectfully request reconsideration of the rejection.

With regard to claim 5, the examiner suggests that Shaffer discloses "segmenting video includes segmenting video into a selected number of segments" (citing Fig. 9, item 1). Applicants respectfully disagree for at least the reasons set forth with regard to independent claim 1, which remarks are incorporated herein in full by reference. Applicants also disagree because the cited Fig. 9 of Schaffer does not disclose a method step of segmenting video into a selected number of segments. According to the textual disclosure corresponding to Figure 9 of Shaffer, Figure 9 depicts a page layout 160. "FIG. 9 is a drawing showing some of the layout styles available for a page in a photocollage." Col. 3, lines 38-39. In other words, different photos/still images, *without any association with a video segment*, will be placed in each graphic image box. Figure 9 does not disclose the method step of segmenting a video, insofar as a video according to the present invention is a movie, and not a still image as disclosed in Shaffer. Because Shaffer fails to recite all the limitations of dependent claim 5 (and because claim 1 is not obvious over the cited art), Applicants respectfully request reconsideration of the rejection of claim 5.

With regard to claim 6, the examiner suggests that Shaffer discloses "using a Genetic Segmentation Algorithm" ("GSA"). Office Action at 4, citing Col. 6, lines 22-30. Applicants respectfully disagree for at least the reasons set forth with regard to independent claim 1, which remarks are incorporated herein in full by reference. Applicants further disagree because the cited text does not disclose GSA. Shaffer discloses "objective processing deals with factual information about the images or groups of images or with data calculated deterministic algorithms." Col. 6, lines 24-26. According to the cited text, "Commercially available software programs such as Adobe Photoshop® and Corel Draw® process images using objective data." Col. 6, lines 28-30. These programs, to Applicants' knowledge, do not perform video segmentation, where the term video is used as in the present application, i.e., an image data stream. GSA, on the other hand, is a "video segmentation technique." Specification at ¶ [0054] (cross-referencing Patent Application No. 09/611,389, now U.S. Pat. No. 6,819,795, issued November 16, 2004). Accordingly, for the reasons cited as to claim 1, and the reasons specifically delineated here, Applicants respectfully request reconsideration of the obviousness rejection of claim 6.

With regard to claim 7, Applicants respectfully submit that claim 7 is not obvious over the cited art for at least the reasons set forth with regard to independent claim 1, which remarks are incorporated herein in full by reference. Applicants further disagree with the examiner's suggestion that Fu discloses "the step of compacting said associated video segment." Office Action at 4 (citing Fu, Col. 2, lines 59-65). The cited disclosure has nothing whatsoever to do with the compacting step of the present invention. That text states:

The system provides tools for the user to easily combine plural scenes into a single composition (an album) which can be burned into a compact disc (CD) for distribution to plural sources. The composition can be viewed locally with streaming content, or can be burned into a CD. The content on the CD can be a high resolution or a streaming format.

Plainly, compacting is not at issue at all in the above text. The specification (see ¶¶ [0067]-[0071]) and the claim are very clear that compaction does not equate to burning onto a CD, as per the cited disclosure of Fu. Accordingly, the cited art fails to teach or suggest each and every limitation of claim 7, and Applicants respectfully request reconsideration of the rejection.

With regard to claim 11, the examiner suggests that claim 11 is rejected for the same reasons as was claim 1. Office Action at 5. Applicants respectfully refer the examiner to the above remarks in connection with rejection of claim 1 and incorporate said remarks herein in full, by reference. Accordingly, Applicants submit that independent claim 11 is patentable over the cited art and reconsideration of the rejection respectfully is requested.

With regard to dependent claim 12, the examiner suggests Shaffer discloses "video segment associated with representative image may be viewed by selecting representative image." Office Action at 5, citing Col. 16, lines 39-42. Applicants respectfully disagree, and refer the examiner to the above remarks in connection with rejection of claims 1 and 11, and incorporate said remarks herein in full, by reference. Applicants further respectfully disagree because the cited text, which actually is claim language, does not relate at all to viewing a video segment with an associated image, as taught in claim 12 of the present invention. Claim 17 of Shaffer, cited by the examiner, teaches:

The method of claim 16 wherein the software means is operative to display the photocollage and to replace images on the pages with images selected from any image within the database.

The language of Shaffer's claim 17 apparently teaches being able to switch images of a photocollage (not a video collage, as in the present invention), to display an alternate, stored image. The language of claim 12 of the present invention, in contrast, relates to playing a segment of video – not exchanging a still photo image – that is associated with a still image. Because of the above arguments incorporated by reference, and because the cited disclosure of Shaffer does not disclose the limitations of claim 12 of the present invention, claim 12 is allowable over the cited art. Applicants respectfully request reconsideration of the rejection.

Regarding dependent claim 13, the examiner suggests that claim 13 is similarly analyzed and rejected for the reasons specified in connection with claim 2. Office Action at 5. Applicant respectfully disagrees and incorporates the remarks in connection with claim 2 above. Reconsideration of the rejection respectfully is requested.

Regarding dependent claim 14, the examiner suggests that Shaffer discloses "representative image is assigned an importance value based on a size of individual video frame in which said representative image is contained." Office Action at 5, citing Col. 10, lines 1-13. Applicants

respectfully disagree, and refer the examiner to the above remarks in connection with rejection of claims 1 and 11, and incorporate said remarks herein in full, by reference. Applicants further disagree because the cited disclosure does not concern “assign[ing] an importance value” as contemplated by the present application.

The cited text of Shaffer discloses a “description file,” of the photocollage, which “includes photocollage features . . .” Col. 10, lines 5-10. Shaffer further discloses that the purpose of using a description file is that “a variety of tailored photocollage products may be designed incorporating features specific to the design goals.” Col. 10, lines 10-13. Thus, Shaffer discloses that the characteristics of the photocollage themselves are stored for use in designing photocollages. Of importance here is that the cited disclosure of Shaffer *does not disclose assigning a priority of any sort to the still images* that are to be inserted; instead, the cited text discloses a file relating to the features of the photocollage itself.

In contrast, *the present invention prioritizes the video images* (which are different from photo images as explained above) of a video collage. Support for this limitation is found in ¶ [0060] of the present application:

[A]n importance value is assigned to each extracted video segment. In an embodiment, the segments assigned to larger individual video frames in the video collage are assigned a higher importance value while video assigned to smaller video frames are assigned a lower importance value. Alternatively, a user may assign an importance value to the selected video segments.

Specification ¶ [0060]. Based on the arguments incorporated by reference and Applicants’ showing that claim 14 teaches subject matter that is not obvious over the cited art, Applicants respectfully request reconsideration of the rejection.

With regard to independent claim 15, the examiner suggests that Shaffer discloses “a length of video segment associated with representative image is reduced based on importance value.” Office Action at 5, citing Col. 10, lines 56-65. Applicants respectfully disagree, and refer the examiner to the above remarks in connection with rejection of claims 1 and 11, and incorporate said remarks herein in full, by reference. Applicants further disagree because the cited disclosure does not concern the limitations of claim 15.

The cited disclosure of Shaffer concerns editing a first draft of a photocollage. "A customer wishing to construct additional pages for a photocollage or to modify the page layout of the first cut version selects one or more images by peeling the sticker image from the sticker sheet 118 and placing it on the page layout form 160 . . ." Col. 10, lines 60-65. The cited disclosure has nothing to do with reducing the length of a video segment based on its importance value, as the latter term has been discussed in the remarks relating to claim 14. Furthermore, Shaffer does not involve video collage, but rather, still images. It is impermissible hindsight to include video, i.e., streaming image data associated with images in a video collage, from Shaffer's photos, which are still images in a collage.

Based on the remarks in connection with independent claims 1 and 11, and also upon the remarks above in connection with claim 15, claim 15 is allowable over the cited art and reconsideration of the rejection respectfully is requested.

With regard to dependent claim 16, the examiner suggests that Shaffer discloses "representative image is associated with a feature vector fixed length video." Office Action at 5, citing Col. 3, lines 49-58. Applicants respectfully disagree, and refer the examiner to the above remarks in connection with rejection of claims 1 and 11, and incorporate said remarks herein in full, by reference. Applicants further disagree because the cited disclosure does not concern a feature vector. The cited text of Shaffer discloses the process of Story Preparation services, whereby a story representation of the *still images* is created.

In contrast, claim 16 calls for associating a feature vector with a representative image. According to the present application, a feature vector "characterizes content activity. Examples of content activity are: (1) length of segment; (2) changes in a medium over time (visual, audio, and text) etc. Assigning a feature vector to each *video segment* provides another feature for adjusting video segments." ¶ [0060] (emphasis added). Shaffer makes no such disclosure, and again, does not concern a video, e.g., stream of image data. Based on the remarks relating to claims 1 and 11, and also on the remarks herein relating to claim 16, Applicants respectfully submit that claim 16 is not obvious over the cited art and reconsideration of the rejection respectfully is requested.

With regard to independent claim 19, the examiner suggests that claim 19 is analyzed and rejected based on similar grounds as claim 1. Office Action at 5. Applicants respectfully disagree,

and refer the examiner to the above remarks in connection with rejection of claim 1, and incorporate said remarks herein in full, by reference. Accordingly, Applicants respectfully request reconsideration of the rejection.

With regard to dependent claim 20, the examiner suggests that Shaffer discloses the "video segment selection device is used for selecting a representative image and inserting selected representative image into said at least one individual video frame . . ." Office Action at 5, citing Fig. 9. Applicants respectfully disagree, and refer the examiner to the above remarks in connection with rejection of claims 1, 11, and 19 and incorporate said remarks herein in full, by reference. Applicants further disagree because the cited disclosure does not concern the limitation cited above. In particular, Fig. 9 of Schaffer depicts different layout options. The disclosure of layout options in Shaffer does not equate with "a video segment selection device . . . for selecting a representative image into said . . . individual frame" which representative frame, as taught in claim 19 of the present application, is associated with a video segment. As explained above, video, e.g., streaming image data, does not equate with photo still images as disclosed in Shaffer. It is impermissible hindsight to render obvious an invention relating to video from an invention related to still images.

For the above reasons, and for the reasons advanced in connection with independent claims 1, 11, and 19, Applicants respectfully submit that claim 20 is patentable over the cited art and reconsideration of the rejection respectfully is requested.

With regard to independent claim 21, the examiner suggests that claim 21 is similarly analyzed and rejected as claim 21. Office Action at 5. Applicants respectfully disagree, and refer the examiner to the above remarks in connection with rejection of claims 1, 11, and 19 and incorporate said remarks herein in full, by reference.

With regard to dependent claims 22-25, the examiner suggests that these claims similarly are analyzed and rejected as claims 2, 5, 6, and 7. Office Action at 6. Applicants respectfully disagree, and refer the examiner to the above remarks in connection with rejection of claim 1 and incorporate said remarks herein in full, by reference. Applicants respectfully request reconsideration of the rejection.

The references cited in the Office Action, including Shaffer and Fu, either singly or in combination, fail to disclose all of the limitations of claims 11, 19, and 21. Claims 12-18, 20, and

22-26 each ultimately depend from one of the independent claims discussed above and are believed patentable for at least the same reasons as the independent claims and because of additional limitations of these claims. Accordingly, Applicants submit that claims 1-26 are patentable over the cited references, and request reconsideration of the rejections and a Notice of Allowance.

### III. Claims to Which the Examiner Objected

The examiner objected to claims 8-10, 17, 18 and 26 as being dependent upon a rejected base claim, but were stated to be allowable if rewritten in independent form.

Applicant has added new claims 27-31, which include the limitations of claims 1 (before amendment) in combination with claims 8-10, 17, 18, and 26, the base claims, and the intervening claims. The new claims are patentable and accordingly, a Notice of Allowance respectfully is requested.

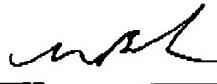
### IV. Conclusion

In light of the above, it is respectfully submitted that all remaining claims, as amended in the subject patent application, should be allowable, and a Notice of Allowance is requested. The Examiner is respectfully requested to telephone the undersigned if she can assist in any way in expediting issuance of the patent.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Dated: April 3, 2006

By: 

Melissa L. Basch  
Registration No. 56,159

Customer No. 23910  
FLIESLER MEYER LLP  
Four Embarcadero Center, Fourth Floor  
San Francisco, California 94111-4156  
Telephone: (415) 362-3800  
Facsimile: (415) 362-2928

Attorney Docket No.: FXPL-01034US0  
Application No. 09/992,617  
mcf/fxpl/1034US/Rcply.C.MLB.doc